

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

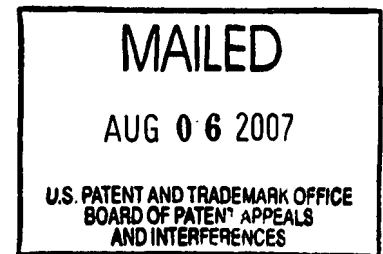
---

Ex parte JOON-SEOP KWAK,  
KYO-YEOL LEE, JAE-HEE CHO,  
AND SU-HEE CHAE

---

Application 10/673,251

---



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on July 26, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

**APPEAL BRIEF**

On June 2, 2005, Appellants filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map the independent claim(s) or dependent claim(s) argued separately to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office’s requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

**EXAMINER ANSWER**

On August 25, 2005, the Examiner Answer is missing page 5 in the Image File Wrapper (IFW) scanning. Clarification is required.

**REPLY BRIEF AND AMENDMENT**

In addition, the review of the file reveals that it is not clear from the record whether the Examiner considered the Reply Brief and Amendment filed October 25, 2005. A written communication notifying Appellants of the response to the Reply Brief and Amendment is required.

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on June 2, 2005, defective;
- 2) notify Appellants to file a paper providing a summary of the claimed subject matter as required by 37 C.F.R. 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 C.F.R. 41.37(c)(1)(v) and;
- 4) re-scan the Examiner Answer mailed August 25, 2005 in the IFW file;

5) consider the Reply Brief and Amendment filed October 25, 2005, with appropriate written notification by the Examiner to Appellants of such consideration;

6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571)272-9797

PJN:kis

cc: BUCHANAN, INGERSOLL & ROONEY PC  
POST OFFICE BOX 1404  
ALEXANDRIA VA 22313-1404